

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DONTE PACE ROBINSON, :
Plaintiff, :
: :
v. : : CIVIL ACTION NO. 21-CV-4398-JMY
: :
RESPONDING NURSE, *et al.*, :
Defendants. :
:

ORDER

AND NOW, this 7th day of January, 2022, upon consideration of Plaintiff Donte Pace Robinson's Motion to Proceed *In Forma Pauperis* (ECF No. 1), his Prisoner Trust Fund Account Statement (ECF No. 3), his *pro se* Complaint (ECF No. 2), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Donte Pace Robinson, # NZ-3940, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of SCI-Forest or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Robinson's inmate account; or (b) the average monthly balance in Robinson's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Robinson's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Robinson's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is directed to **SEND** a copy of this Order to the Warden of SCI-Forest.

4. The Complaint is **DEEMED** filed.

5. For the reasons stated in the Court's Memorandum, the Complaint is

DISMISSED IN PART WITH PREJUDICE AND IN PART WITHOUT PREJUDICE as follows:

a. Robinson's deliberate indifference claim against Responding Nurse is

DISMISSED WITH PREJUDICE.

b. Robinsin's retaliation claim against Lieutenant 1 and his deliberate indifference claim against Wetzel are **DISMISSED WITHOUT PREJUDICE.**

6. The Clerk of Court is **DIRECTED** to terminate Responding Nurse as a Defendant.

7. Robinson may file an amended complaint within thirty (30) days of the date of this Order. Any amended complaint must identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint and shall state the basis for Robinson's claims against each defendant. **The amended complaint shall be a complete document that includes all of Robinson's claims, including his claims against Defendants Correctional Officers 1, 2, 3, and 4, Lieutenant, and Lieutenant 2.** It may not rely on the initial Complaint or other papers filed in this case to state a claim. When drafting his amended complaint, Robinson should be mindful of the Court's reasons for dismissing the claims in his initial Complaint as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

8. The Clerk of Court is **DIRECTED** to send Robinson a blank copy of the Court's form complaint for a prisoner filing a civil rights action bearing the above civil action number. Robinson may use this form to file his amended complaint if he chooses to do so.¹

9. If Robinson does not file an amended complaint the Court will direct service of his initial Complaint on Defendants Correctional Officers 1, 2, 3, and 4, Lieutenant, and Lieutenant 2 **only**.² Robinson may also notify the Court that he seeks to proceed on these claims rather than file an amended complaint. If he files such a notice, Robinson is reminded to include the case number for this case, 21-4398.

10. The time to serve process under Federal Rule of Civil Procedure 4(m) is **EXTENDED** to the date 90 days after the Court issues summonses in this case if summonses are issued.

BY THE COURT:

/s/ John Milton Younge

JOHN M. YOUNGE, J.

¹ This form is available on the Court's website at <http://www.paed.uscourts.gov/documents/forms/frmc1983f.pdf>.

² The Court understands that Robinson has thus far been unable to identify the Defendants by names, however, without the name of at least one individual or entity, the Court may be unable to direct service of Robinson's original complaint, or of any amended complaint that Robinson may file.